

CHAPTER NO. 891

HOUSE BILL NO. 2297

By Representatives Patton, Bunch, Maddox, Whitson, Chumney, Scroggs, Black, Beavers, David Davis, Tidwell, Ford, Givens, Kent, Todd, Westmoreland, Pinion, Montgomery, White, Winningham, Kernell, Brenda Turner, Mumpower, Godsey, Baird, Ferguson, Pleasant, McKee, Roach, Boyer, Bowers, Fitzhugh, Stulce, Ralph Cole, Eckles, Hood, Bittle

Substituted for: Senate Bill No. 3275

By Senators Haynes, Miller, Williams

AN ACT to amend Tennessee Code Annotated, Section 36-6-306 and Section 36-6-307, relative to grandparent visitation.

WHEREAS, it is sound public policy to provide children with the stability and continuity of meaningful relationships in their lives; and

WHEREAS, if a grandparent has had a significant existing relationship with a child, a loss of that relationship could be a severe emotional and psychological blow to the child; and

WHEREAS, the Tennessee Supreme Court has concluded that ordering grandparent visitation without first finding a danger of substantial harm to the child is unconstitutional because it violates the constitutional rights of the child's parents; and

WHEREAS, it is desirable to strike a balance between protection of parents' constitutional rights and providing protection of children's needs; now, therefore;

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-306, is amended by deleting that section in its entirety and by substituting instead the following:

(a) Any of the following circumstances, when presented in a petition for grandparent visitation to a court of competent jurisdiction, necessitates a hearing if such grandparent visitation is opposed by the custodial parent or parents:

(1) The father or mother of an unmarried minor child is deceased;

(2) The child's father and mother are divorced or legally separated;

(3) The child's father or mother has been missing for not less than six (6) months; or

(4) The court of another state has ordered grandparent visitation.

(b)(1) In considering a petition for grandparent visitation, the court shall first determine the presence of a danger of substantial harm to the child. Such finding of substantial harm may be based upon cessation of the relationship

between an unmarried minor child and the child's grandparent if the court determines, upon proper proof, that:

(A) the child had such a significant existing relationship with the grandparent that loss of the relationship is likely to occasion severe emotional harm to the child;

(B) the grandparent functioned as primary caregiver such that cessation of the relationship could interrupt provision of the daily needs of the child and thus occasion physical or emotional harm; or

(C) the child had a significant existing relationship with the grandparent and loss of the relationship presents the danger of other direct and substantial harm to the child.

(2) For purposes of this section, a grandparent shall be deemed to have a significant existing relationship with a grandchild if:

(A) The child resided with the grandparent for at least six (6) consecutive months;

(B) The grandparent was a full-time caretaker of the child for a period of not less than six (6) consecutive months; or

(C) The grandparent had frequent visitation with the child who is the subject of the suit for a period of not less than one (1) year.

(c) Upon an initial finding of danger of substantial harm to the child, the court shall then determine whether grandparent visitation would be in the best interests of the child based upon the factors in § 36-6-307. Upon such determination, reasonable visitation may be ordered.

(d)(1) Notwithstanding the provisions of Section 36-1-121, if a relative or stepparent adopts a child, the provisions of this section apply.

(2) If a person other than a relative or a stepparent adopts a child, any visitation rights granted pursuant to this section before the adoption of the child shall automatically end upon such adoption.

SECTION 2. Tennessee Code Annotated, Section 36-6-307, is amended by deleting the section in its entirety and by substituting instead the following:

In determining the best interests of the child under § 36-6-306, the court shall consider all pertinent matters, including, but not necessarily limited to, the following:

(1) The length and quality of the prior relationship between the child and the grandparent and the role performed by the grandparent;

(2) The existing emotional ties of the child to the grandparent;

(3) The preference of the child if the child is determined to be of sufficient maturity to express a preference;

(4) The effect of hostility between the grandparent and the parent of the child manifested before the child, and the willingness of the

grandparent, except in case of abuse, to encourage a close relationship between the child and the parent(s) or guardian(s) of the child;

(5) The good faith of the grandparent in filing the petition;

(6) If the parents are divorced or separated, the time-sharing arrangement that exists between the parents with respect to the child; and

(7) If one (1) parent is deceased or missing, the fact that the grandparents requesting visitation are the parents of the deceased or missing person.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

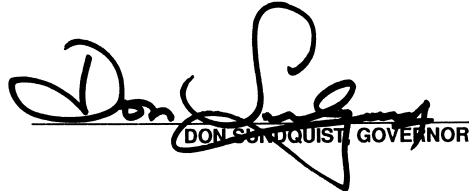
SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: June 1, 2000


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 14th day of June 2000


DON SUNDQUIST, GOVERNOR